

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

AIMEE MADDONNA,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 6:19-cv-448 (TMC)

**FEDERAL DEFENDANTS’ BRIEF IN RESPONSE TO THE COURT’S ORDER OF
AUGUST 6, 2019**

Federal Defendants file this Brief in Response to the Court’s Order of August 6, 2019 and state as follows.

Defendant Governor McMaster filed a supplement to his Motion to Dismiss on July 17, 2019, notifying the Court of a press release by Miracle Hill stating that the organization has modified its criteria concerning the foster parents and employees with which it will work, to include “Catholics who affirm Miracle Hill’s doctrinal statement in belief and practice.” Suppl. To Def. McMaster’s Mot. to Dismiss ¶ 4, ECF No. 46 (quoting Press Release, Miracle Hill Ministries, *Miracle Hill Ministries Strengthens Christian Identity by Opening Foster Program to Catholic Foster Parents* (July 5, 2019)). On August 6, 2019, the Court ordered the parties “to file a brief specifying how this new development affects this case, if at all.” Text Order, July 17, 2019, ECF No. 50.

At this time, Federal Defendants do not believe that this development has any effect on the arguments made in their Motion to Dismiss, ECF No. 29.¹ Each of the arguments raised in Federal Defendants' Motion remains fully applicable and warrants dismissal of these proceedings, regardless of the policy change. Moreover, the January 23, 2019 conditional exception has not been revoked or otherwise modified, and Federal Defendants do not currently anticipate taking any such action.

Accordingly, Federal Defendants reiterate that this case should be dismissed as to them and respectfully ask the Court to do so, for the reasons set forth in their prior briefing.

¹ If Plaintiff's brief in response to the Court's Order contains representations indicating this case has become moot as a result of Miracle Hill's change in policy, Federal Defendants will promptly advise the Court accordingly. In a prior telephonic conference, however, Plaintiff's counsel informed counsel for the parties that Plaintiff objects to affirming Miracle Hill's doctrinal statement and that, accordingly, she does not believe her claims are moot. Federal Defendants do not dispute this assertion at present but reserve the right to do so at a later stage of proceedings.

Dated: August 20, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

SHERRI A. LYDON
United States Attorney

/s/ Christie V. Newman
CHRISTIE V. NEWMAN (#5473)
Assistant United States Attorney
1441 Main Street, Suite 500
Columbia, SC 29201
Telephone: (803) 929-3021
Email: Christie.Newman@usdoj.gov

MICHELLE BENNETT
Assistant Branch Director

CHRISTOPHER A. BATES
Senior Counsel to the Assistant Attorney General

JAMES R. POWERS (TX Bar No. 24092989)*
Trial Attorney
Federal Programs Branch
U.S. Department of Justice, Civil Division
1100 L Street, NW
Washington, DC 20005
Telephone: (202) 353-0543
Email: james.r.powers@usdoj.gov

*Admitted *pro hac vice*

Counsel for Federal Defendants